

U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION**

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UNITED STATES OF AMERICA

CRIMINAL NO. 04-50178-01  
CIVIL NO. 07-0407

VERSUS

JUDGE DONALD E. WALTER

JERRY BROADWAY

MAGISTRATE JUDGE HORNSBY

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**ORDER**

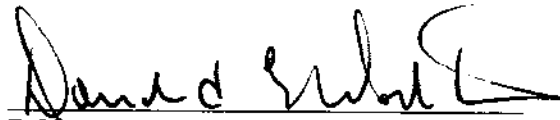
Before this Court is a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence [Doc. #35] filed on behalf of defendant, Jerry Broadway. Broadway asserts that he was denied effective assistance of counsel when his trial lawyer failed to argue that the evidence presented at trial was obtained in violation of the Fourth Amendment.

A motion by a federal prisoner for post conviction relief under 28 U.S.C. § 2255 is subject to a one-year time limitation that generally runs from “the date on which the judgment of conviction becomes final.” §2255, ¶6(1). In United States v. Clay, 537 U.S. 522, 525, 123 S.Ct. 1072, 1075, 155 L.Ed.2d 88 (2003), the Supreme Court held that “[f]or the purpose of starting the clock on §2255's one-year limitation period . . . a judgment of conviction becomes final when the time expires for filing a petition for certiorari contesting the appellate court's affirmation of the conviction.” Id.

Broadway was sentenced by this Court on November 18, 2005. The judgment was entered on November 30, 2005. Prior to the filing of the §2255 motion presently before this Court, no other action had been taken since Broadway was sentenced. Broadway filed the §2255 motion at issue on March 5, 2007. Even if this Court were to afford the most liberal construction to the applicable statute of limitations, Broadway's motion would not be timely.

Accordingly, **IT IS ORDERED** that defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence [Doc. #35] be and is hereby **DENIED**.

**THUS DONE AND SIGNED** in Shreveport, Louisiana, this 13<sup>th</sup> day of August, 2007.

A handwritten signature in black ink, appearing to read "Donald E. Walter", written over a horizontal line.

DONALD E. WALTER  
UNITED STATES DISTRICT JUDGE